

TRANSCRIPT OF INTERVIEW WITH PROFESSOR REGINA AUSTIN

LEE: Hi, I'm Randy Lee. Today is Thursday, October 21st, 1999. It is almost two o'clock in the afternoon. We are going to be interviewing Professor Regina Austin in her office at the University of Pennsylvania Law School today.

LEE: Professor Austin, I am going to begin with your childhood. When and where were you born?

AUSTIN: I was born in Washington, D.C. in 1948.

LEE: Where were your parents born?

AUSTIN: I think they were both born in Trenton, New Jersey. I'm not sure.

LEE: Do you know what your parents did for a living?

AUSTIN: My parents were pretty young when I was born. I don't think my mother did much of anything, and my father may have worked for the Pennsylvania Railroad. He eventually became a government clerk, and my mother is a hairdresser.

LEE: Did you have any siblings?

AUSTIN: I have a brother and a sister, both younger.

LEE: Do you think that your place in your family shaped your personality or views in any way?

AUSTIN: Oh absolutely. Being firstborn does make a difference. I'm very bossy. But also I sort of inherited my parents' and grandparents' work ethic, I think, more than my siblings did.

LEE: Where did you grow up?

AUSTIN: In Washington, D.C.

LEE: What were some of your interests and hobbies as a child?

AUSTIN: I liked to read and that was probably the thing that I liked to do the most. I played, but after awhile I stopped playing because I got tired of that. I got bored with that. So, I liked to study.

LEE: What is your fondest memory of high school?

AUSTIN: My fondest memory of high school? Gee, I don't know. High school was a lot of work. I finished first in my class, so my fondest memory was I finished first in my class.

LEE: What activities were you involved in during high school?

AUSTIN: Well, I did all kinds of things. One had to pad one's resume in order to get a scholarship to college. So I was involved in the student government, I was a cheerleader, I was an editor of the yearbook. I'm sure I did something else, but I can't remember at this point.

LEE: Did you have any role models or mentors during your childhood or adolescent years?

AUSTIN: My history teachers were very important to me, and they were very protective. My mother and I had the same English teacher and many of the teachers that I had had been in the public school system for a long time and knew what they were doing and expected a lot of us and I think challenged us. And that made a difference. I grew up in an all-black environment. My teachers were by-and-large black, my doctors were black, my dentists were black, and it was a very different sort of world than the one that I found when I left home at the age of eighteen.

LEE: How do you think your family's socioeconomic status, while you were growing up, shaped your view of the world?

AUSTIN: Oh, it definitely...it definitely did. I lived in two worlds when I was growing up. When I went to visit my father's mother I was privileged relative to the kids who lived in the community because my grand-aunt and grandmother ran rooming houses so they were small business women and therefore they had more resources than some of the kids that I played with. But they were very generous to the kids that I played with and treated them pretty much the same way they treated me when it came to ice cream and fireworks, so that I had a good sense of what

it meant to be someone in the community with a modicum of resources surrounded by people who don't have as much as you do. In terms of the house where I primarily lived with my grandmother, we were not very well off because my mother was a single parent raising three kids by herself. And that made a difference too. And it was that experience that I think helped me to understand what being working-class is about. And I think it taught me a certain essential lesson about the value of money and I think that's important to what it is I do now.

LEE: So you were raised by your mother and your grandmother?

AUSTIN: Yes. My grandmother early on and then my mother later on. The grandmother was my father's mother.

LEE: Do you think that growing up as a black woman is different today in any way?

AUSTIN: Oh certainly because times have changed enormously as a result of advancements with regards to civil rights, with regard to women's rights, with regard to the stratification of the society, changes in the labor market, in the economy. So I think that my experience is one which is not unlike that of many young black women today, but it's nowhere near as prominent as it was when I was growing up.

LEE: If we could shift to your college years now... Why did you decide to go to college?

AUSTIN: Oh we knew that we were going to go to college. I come from a family of... from a matriarchy basically. I grew up in a household with six women and one male, my poor brother. And it was pretty clear that we were going to go to college and that we were probably going to become schoolteachers of one sort or another. Everything was directed at that. It was a very strict household, very religious household. No drinking, no smoking, and you did your homework, by-and-large. So I thought I was gonna be a high school teacher and I'm sure my cousin thought she was gonna be a high school teacher too. She's a professor at Howard University, as is another one of my cousins. Three of us are lawyers and my sister is a social worker. And my brother works for the government. And we all went... we all went to college. That was what was expected of us. I assumed when I was growing up that in order for me to go away to college I would have to get a scholarship so I worked very, very hard. Otherwise I would've gone to Howard or the local community college or the local college, but I was gonna go to college.

LEE: Why did you decide to attend the University of Rochester as an undergraduate?

AUSTIN: Money. They gave me the most money. I went to Rochester because they gave me the most money and I came to Penn because they gave me the most money. I used to live on the twenty dollars a week that my mother sent me for all my meals and all my incidentals or what-not. I knew that if I wanted to go away I'd have to get a scholarship and they were still giving scholarships back when I was a young woman, so that's how I got to go away to college and go away to law school.

LEE: What activities were you involved in at the University of Rochester?

AUSTIN: Taking over buildings. Yeah, I was very active in college. It was required. I don't remember how many students were in my freshman class but I do remember there were three black females and three black males. We didn't know what they had in mind, but it was pretty clear that that was an insufficient number. So, for the rest of my time there we struggled to get the University to enlarge the complement of students and to come up with academic and support programs for black students. And that was a major, major effort for many of us and it was the effort to which I devoted most of my energies. I didn't do as well in college as I might've done if I didn't have struggle to... struggles to engage in. There was struggle. And that's what I did in college.

LEE: Are those struggles some of your fondest memories of college?

AUSTIN: Oh absolutely. When we took over the faculty club that was probably the highlight of my college career. Other people were taking over other kinds of buildings but we thought we would take over someplace where we thought we could maintain ourselves. That was not totally essential to the operation of the University but would hit home, at least to some people. Rochester is...was at the time out in the middle of nowhere. So the faculty club was a strategic location and we negotiated with the central administration and got concessions. Of course, we also had to go up on charges for infringing the disciplinary code or whatever it was called. And I remember acting as lawyer for the group and we pled some version of the necessity defense and were successful.

LEE: Did you have a major focus of study in college?

AUSTIN: Did history. I was a student of Herbert Gutman, who is a labor historian and a historian of slavery. I've been blessed, or I was blessed, in all of the educational environments in which I found myself. There were people who were supportive and understanding and there were such people in Rochester. And Herbert Gutman was among them. I was a history major and I had an English minor.

LEE: What types of careers did you consider when you were in college?

AUSTIN: High school teaching. I had a job at Alice Deal Junior High School. Because that's what good, upwardly mobile, young, black women from the working class did. And so I was going to become a junior high school teacher in Washington, D.C. But then I thought better of it and I decided I should apply to law school, and I got in to some law schools. I got into Penn and I got into N.Y.U. and when Penn gave me more money I decided that I'd go to Penn rather than N.Y.U. People also had told me some things about the Village and I decided that I needed to devote myself to law school and so I came to Penn.

LEE: Moving on to your law school years...do you recall what the admissions process was like when you applied to law school? Is it similar to today?

AUSTIN: Oh no, not that I know. Somebody called me and said, "Are you still interested in the University of Pennsylvania?" And this was after I had decided to go to N.Y.U. So I said, "Sure." And then they gave me more money, so I came to Penn. I was in the first cadre of minority students...a substantial cadre of minority students that had ever been admitted to the law school. We enrolled in 1970 and I think there were thirteen or fourteen of us.

LEE: At what point did you decide to go to law school? You said that you had been planning to be a high school teacher.

AUSTIN: Somewhere towards the middle of my senior year in college.

LEE: Do you remember your first day or first year at Penn Law School? What do you remember?

AUSTIN: First day, first hour I was called on by Howard Lesnick. My class met in room 100. Because we were a large class there were a number of young men who had finished their alternative service or who had served in the military and they were at the law school as first year students which is why the class couldn't fit into the two classrooms down in the basement. So we were in room 100 which was not a place to have a first year class but somehow we survived it. And there may have been as many women in my class as there were minority students so we had a fairly large, for the time, contingent of females as well as contingent of minority students and I belonged to both. I guess that's... I remember being in room 100. I had Paul Bender for Civil Procedure and Martha Field for Criminal Procedure and Mr. Morris for Torts and John

Stedman for Property and I think I was in Howard Lesnick's Labor Law course which turned out to be a disaster because it was not a graded course. It was connected to our legal writing program and people just did not go to class. And I'm sure I had one other professor whose identity escapes...Oh, Curtis Reitz for Torts...No, Contracts...Curtis Reitz for Contracts. So that was it. I remember the first year.

LEE: Were you involved in any activities at Penn?

AUSTIN: I'm sure I was connected with B.A.L.S.A. but beyond that I just wanted to survive.

LEE: How was the typical day at law school in the 1970s different than it is today?

AUSTIN: I think law school loomed larger in our lives. In a lot of ways, I think it was a lot harder. We had exams at the end of the year and not before the end of the year. People seemed to work at all hours of the day and night. They would be walking around this building at two o'clock in the morning. Now, there may be some people doing that today but I don't know anything about them. I certainly don't know them. They were notorious in my time. Because there were fewer women in the class, I think that it was somewhat more difficult for women in the classroom, but by-and-large we did very well academically and it was lonelier for me as a black female. There were three black females in my class in the first year. Second year, I was the only one still around so I lost the companionship of black female peers.

LEE: Do you think that your experience as a black woman in the law school was different from that of other law students?

AUSTIN: Oh sure, yeah. Well, I don't think that there was any...well, I won't say that there was no expectation that we would succeed academically but the expectations were that we would have trouble academically. So that the benefit of the doubt was not with us insofar as academics were concerned. So that was a problem. Many of the males that I went to law school with had done other things before they came to law school and I came directly from law school...I'm sorry, from college. They had done other things between college and law school. They had families. So it was difficult dealing with them at times because their lives were so different from that of many of the law students who could devote one hundred percent of their time to studying as could I. So that there were real tensions there. And I had done my activism stint in college and they had not so that their interest were not compatible with mine. My interest was to pass all my first year classes and indeed I did. I did very well in law school but there was a real tension...a real tension there.

LEE: Were there any women or minority faculty members here during your time at Penn?

AUSTIN: Martha Field. Brilliant woman. First in her class at the University of Chicago, Supreme Court clerk, wild woman...wild woman. She was here...wore leather pants, rode a motorcycle, could compete with the guys.

LEE: Was she the professor that had the greatest influence on you, do you think, or was there someone else?

AUSTIN: In terms of law school? She would be one of the people...yes. Ed Sparer, of course would be the other. And Julius Chambers, who at the time was the new head of the N.A.A.C.P legal defense fund, or was at least working with them doing school desegregation work. So I guess those would be the three professors who had the greatest impact on me.

LEE: Do you have a fondest memory of law school or something you liked the most about going to law school?

AUSTIN: I liked to study. It was like being back in high school. Fond memories? No, I think the thing that made the most impact on me was the resistance the Welfare class had to talking about work and Ed Sparer insisted that we talk about work. And we just thought he was crazy because we stopped everything in the middle of our discussion of welfare to talk about work and we just couldn't understand why he was doing that. But, that had a real profound impact on me and now I can understand the relationship between work and welfare but I couldn't at the time. He was just amazing, amazing thinker, activist, educator...had a great and lasting impact.

LEE: What did you like the least about law school, if there was anything?

AUSTIN: What did I like least? I think the isolation was difficult. Being a token is not the easiest role to fulfill. I think that's the worst part about it. You miss out on some of the fun

that's associated with being in an educational institution when you're twenty years old or twenty-two years old. I didn't have a whole lot of fun in law school, so I missed that. I guess that's the worst part.

LEE: Did you have a favorite class in law school?

AUSTIN: My favorite law school class? I liked Welfare Law, that had a real impact on me. I can't think of anything else. You've got my yearbook?

LEE: This is the yearbook from 1973, the year you graduated. I was wondering if this brought back any memories for you. Are there any familiar faces?

AUSTIN: Well, there's me. Oh, sure I see some of these people from ...I see some of these people... I see the Blumenthals' I see from time to time and they're still actively involved in the law school. Ed Dennis I see all the time. Saw him two weeks ago. I don't know who else is here? Good heavens, yeah I see these people. Some of them I think about, some of them I see. I see Roslyn Gould's name all the time. [Asked to hold up her picture] My picture? Well it's obvious I didn't pose for this picture. I refused to pose for the picture so they had to catch me in the hall outside of the dean's office which is how they got the picture of me. Then, there's Dorky some place, I don't know where Dorky is. Is he in here? He probably doesn't look like himself. Trip. Well, anyway...yeah, this is us. I went to my twenty-fifth reunion. I'm not sure why, but I thought it was a good thing to do since I was a professor. It made sense and Sherry was there. Yeah, this is us.

LEE: How did some of the political and social issues facing society during the 1970s affect the Law School community?

AUSTIN: Very different place than it is today. The cases that we were reading in class were right off the presses. Very important to the social issues of the time. What the Supreme Court did was watched with great interest and today if the Supreme Court handed down an opinion that was relevant to something that I did, it would take me awhile to find out about it. I just pay absolutely no attention to the Supreme Court. The law does not have the same immediacy today that it had when I was in law school. We knew that we were onto something and that we had an important role to play in the society. And there was a fervor in the law school among the students that hasn't been duplicated in the time that I've been here as a professor. The students were active in governance, they wanted votes, they were interested in tenure fights, who was on the faculty, what was being taught, what role the law school played in the world. Clinical education got started back then with the students undertaking to do death penalty work. So very, very different than it is today, I think.

LEE: You were named a member of the Order of the Coif, the legal honorary society. What did receiving that honor mean to you? How did you do academically at Penn?

AUSTIN: Well that meant I finished in the top ten percent of my class. I had just wanted to survive. I found that I could do a little bit better than that and so it became my goal. So I did okay in law school. It's important to do well in law school because you keep your options open

and it's important to have options especially if you don't know what you want to do in life and I didn't.

LEE: After law school, you became a law clerk in 1973. When and why did you decide to become a law clerk?

AUSTIN: It was the thing to do. I had no great career goals. Remember, I was gonna be a junior high school teacher. I didn't know anything about interviewing. I knew nothing about the legal profession. The summer after my first year I worked for a solo practitioner in Washington, D.C. He had an office not too far from my home and that was about all I knew about practice. But Bernard Segal had lunch with Bernard Wolfman, who was the dean and the dean called me in and he said, "I have a job for you or least an interview for you." So I went down to this law firm. I had never been to a law firm before in my life and I was interviewed. And I think I basically had the job if I didn't have two heads. Dean Wolfman was always looking out for me. He's another one of those important people in my career. So I got ushered into Bernard Segal's office. This is a second-year student on an interview for a summer job gets ushered into the office of the chairman of the firm and I passed whatever muster there was and I got a summer job at Schnader, Harrison, Segal and Lewis. And I went and worked for the summer and I got a permanent offer from Schnader, Harrison, Segal and Lewis. So in some ways my future was handed to me on a plate. But you were supposed to clerk so I clerked. I clerked for Judge Spaeth. I think the plan was that I would go on to clerk for somebody on the D.C. Circuit and then I would go on to clerk for the Supreme Court but I decided that I didn't really want to spend

the rest of my existence clerking so I clerked for Judge Spaeth for a year and then went to Schnader and shortly after that got a job here but delayed coming for a year and a half.

LEE: Were you particularly interested in working for Judge Spaeth because of his connection with Penn Law School?

AUSTIN: Because of his connection with Penn Law School and his reputation for being a progressive jurist which he was. So it was a good clerkship to have. It was a very pleasant work environment and it was a lot of fun.

LEE: Was there any case you remember working on when you were a clerk that was especially significant to you?

AUSTIN: Oh that was a long time ago, no.

LEE: Did you enjoy your experience as a clerk? Do you think it changed your opinion of the judiciary in any way?

AUSTIN: There were some judges on the court that were not highly respected and I understood why. Pennsylvania state courts have had their problems.

LEE: After your clerkship, you became an associate for three years, from 1974 until 1977, you mentioned, at Schnader, Harrison, Segal and Lewis in Philadelphia. Do you remember what a typical day at the firm was like?

AUSTIN: A typical day for me was a day spent in the library. I was a library litigator and that's all I really wanted to do. I conducted one deposition. The deponent dropped his pants at the elevator. It was a collection matter for, maybe, First Pennsylvania Bank, and the deponent showed up drunk and that was the last deposition I ever took. I didn't want to be a real litigator anyway. I liked the library work. I like writing. So I would come in and write all day and leave at 7:30 or whatever, go home and do some more work, and start over the next day.

LEE: In what area of law did you specialize?

AUSTIN: I did litigation. One rotates or one rotated at that time. So I started off doing estates work and then I did litigation. And I had to do...I had to do a round in business but it didn't last the entire four months because something happened with some litigation matter that I had previously worked on so I did that. Business wasn't so bad.

LEE: Was there a very challenging case you worked on?

AUSTIN: Oh, well...I don't know that they were challenging. I remember working a lot on a case having to do with financing of the expansion of the airport and another case having to do with one of these buildings in University City Science Center. Those were the ones that I

remember but I worked on a host of other cases. Some insurance litigation...large scale insurance litigation. An Armstrong flooring case. I never had any cases where I felt that I was on the wrong side. I was just maybe in the wrong place but not on the wrong side. It's when they decided that I was going to be the next postal rate maven that I decided that it was time to go. The firm represents UPS and UPS was involved in the postal rate hearings and the firm did that and I decided I did not want to do that and that spurred me to look for a teaching job.

LEE: Were there any other women or minority attorneys?

AUSTIN: There were...absolutely. Bill Brown was there when I was an associate. He had been the head of the E.E.O.C. so his presence was very, very important and there were a few other younger people who sort of came and went. And there were few women. There was one woman who was a partner in the labor department and there may have been one woman who was a litigator. But there were very, very few of us. I started before there were "dress for success" suits. I remember wearing platform shoes to work and a shirtwaist dress. Well I was only gonna spend time in the library, I guess it really didn't...really didn't matter. But that was in the very, very beginning when there were very few of us...very few minorities and very few women. And, it was tough. It was very tough. There were some women who were attempting to be mothers and lawyers and so it was somewhat tougher for them. I had the same luxury that I had in law school of being able to work all the time so I did my two thousand billable hours fairly easily even though I never traveled anywhere except to Lancaster, Pennsylvania once or twice. But, it was hard.

LEE: When were you offered a position at Penn Law School as an associate professor? Why did you decide to defer?

AUSTIN: Oh I knew pretty much from the beginning of my career as a law student that I wanted to be a law professor and I got the offer, I guess, in '75 or '76. I came in '77. I wanted to be a little more mature because I was coming back to the place where I had gone to school and I found it difficult to conceive of myself as a colleague surrounded by my instructors...very hard, so I thought it would help to be a little bit older.

LEE: Was it unusual for someone to be offered a position two years after they graduated from the law school?

AUSTIN: Not at that time. At that time we would hire people who had done very well in law school and who had gone on to clerk for judges...Supreme Court judges, circuit judges....so it wasn't uncommon to hire very young people. We don't do that today. That's very, very rare.

LEE: What was it like to have some of your law school professors as colleagues when you returned to Penn as a professor?

AUSTIN: It was very comforting because my back was always protected, so I could make trouble and I knew that I'd have back up. So that was important because as a woman and a minority I had lots and lots and lots of issues to make trouble about. So, that was good. It was hard being young, just in general, because students tend not to be as respectful of younger

professors and when you throw in the fact that I was a female and a minority person, that made it somewhat more likely that I would get...encounter trouble in the classroom as indeed I did. And so it was nice to have people who knew you and who had high expectations of you around to be supportive. When I began many of us lived in Center City so there was a lot of social interaction as well as professional interaction and that was very, very good, very supportive for me as a young professor.

LEE: What courses did you teach when you came to Penn and what did you want to teach?

AUSTIN: I taught Torts. I hadn't thought about teaching Torts but they asked me if I could teach Torts and indeed I could. I'd had Mr. Morris as my Torts teacher so I was taught Torts very well. And so I've been teaching Torts ever since. And I also taught Insurance. I can't remember what else I taught.

LEE: What was your first year of teaching like and what did you learn about teaching during your first year?

AUSTIN: I have no idea. I cannot remember. I still have the book from back then.

LEE: I've heard that you have a very unique teaching style, using film to punctuate some of your lessons and using different types of methodologies to motivate your students. How would you describe your teaching philosophy and teaching style?

AUSTIN: Oh, okay. Well I'm not a Socratic wonder. That's not what I'm interested in doing. I use film and ethnographies and social science literature to expand on the cases because I don't think that doctrinal analysis and the kind of formalistic analysis that you find in many opinions get you to the heart of the controversy in more cases than, I think, many of us lawyers would like to believe. I think that context is very, very important and that the process of judicial decision-making leaves out too much of the context or it assumes a context which may bear very little relationship to real people's reality and the films, and the ethnographic readings make the context come alive so that's why I resort to film. Besides that, young people today don't read books...they go to movies, so if you want to hold the attention of people who are used to visual text as well as written text you need to begin to bring and incorporate film and video. Now it would be nice if I could get some of my students to make videos to begin to construct visual contexts for legal controversies but we haven't gotten there yet. But, that's coming.

LEE: Have you ever had any resistance to your teaching style or to some of the views that you teach in class?

AUSTIN: Oh sure. Much too liberal, much too loose, not doctrinal, policy is empty, it's all very confusing.

LEE: Has your teaching style changed over the years?...Have the student body changes and faculty changes of the law school...does that play a role?

AUSTIN: Yes, because the student body has changed over time and you do have to accommodate yourself to your audience. We went through a period where we had many students who were lapsed academics or disappointed graduate students or women who were either returning to college or who had delayed college and therefore came to law school as more mature students and that was a time period when you could do certain things that you couldn't do in the more recent time when the students by-and-large came directly from college. The data for this year's first-year class indicates that we may be entering a period where students do something between college and law school and I think that will make a difference in terms of how much information, how much in the way of resources the students bring to law school, what kinds of real problems they have confronted and solved, and what kinds of skills they therefore have with regard to legal problem-solving.

LEE: Do you think that it is important for law students to have a diverse faculty and why?

AUSTIN: Oh, it's absolutely essential for the students to have access to a diverse faculty. For one thing, the students are diverse and if we are here to educate everybody I think that we have to pay some attention to the diversity of interests of the student body and the profession needs to be diverse because we are dealing with a client base that is quite diverse. And I think it's important for schools to be places where people mix it up. Maybe...It may be that not very much turns on the course of a discussion in a first-year Torts course...the world will not be shaken by the course of the arguments, but over the long run, I think, that the exchanges that go on here and the relationships that are made here will make a difference as they are multiplied

throughout the three years here and as they are multiplied throughout the many schools of the country.

LEE: What do you consider to be your most significant contribution to the Penn Law community?

AUSTIN: I've survived...I don't know. I don't know, I'd like to think that it's the students that I've taught who've gone out to do things that have made a difference. That's what I like to think and I think that's...that's important. I write a few articles and people read them and they seem to get something out of that. Like I said, I've survived. And from time to time you see how important it is for institutions to have faces that are not all the same. To a certain extent I am a face of Penn, just as you are the face of Penn. And you go places and you say that you are from the University of Pennsylvania and it means something to people. And I don't mean to sound as if I'm being self-congratulatory or egotistical, but it does help people to believe in the society when they can see that the institution has incorporated people whose interests are like their own and whose needs may be like...like their needs. So if I'm a face for the institution, maybe that's a contribution as well.

LEE: During your time at Penn have you seen any changes in the ways the University interacts with the surrounding West Philadelphia community?

AUSTIN: I think that it has gotten much more involved. I think that that's one of the contributions of President Rodin has made. The times have changed and the University is not

trying to wall itself off from the surrounding community. When I came here in 1970 this building was surrounded by row houses if you can imagine that. There was a vibrant black community here which was destroyed in the name of urban development and expansion. I don't think that kind of thing would happen today. I think the institution is much more cognizant of its role in the city, much more cognizant of its role in West Philadelphia and University City. And I think that the people in the communities are making demands that would operate to impede any great expansion...at least I think so and they're making demands that the resources of the University be shared somewhat more broadly than they were in the past. I'm not saying that everything is perfect and I'm sure that more could be done but some changes have been made.

LEE: During your time as a professor, you have visited Harvard in 1989, Stanford in 1991, and Brooklyn Law School in 1998. Why did you decide to visit those particular schools? What brought you there?

AUSTIN: They asked me. I go where I am asked to go if I think that it's...it's worthwhile to do it. If I had it to do over again, I think I'd go to Brooklyn, I'm not sure about the other two places. I had a good time in Brooklyn. It was good being in Brooklyn because it was a different kind of school. It's a free-standing law school, not connected to the University in an ostensibly black and gentrifying neighborhood. The students are different, their orientation is different, so I learned some things being there. I'm not sure I learned a whole lot at Harvard. The Stanford visit I think was very, very useful because at Stanford, I had resources with regard to my Environmental Justice work that I might not have had here. So the Stanford visit was very useful in that respect. I won't say anything more about Harvard.

LEE: So, you don't want to discuss...

AUSTIN: No, you can ask me questions, I don't...

LEE: I wanted to know if you could describe the controversy that took place at Harvard and what were some of your feelings about it. I've read about it, but I just wanted to hear what you had to say.

AUSTIN: It was like being in the middle of a family feud and having no real stake in the outcome and having your name and your persona totally stolen. They ran off with my stuff and this has nothing to do with me. And I think it was pretty clear to many of the people involved in this that it didn't have a whole lot to do with me. The students, I think, meant only the best but I can't say that any lasting...any lasting leadership was developed as a result of the protest and so it has become something that I still have not been able to live beyond, around, or over, but I've moved on, I don't care. That's their problem.

LEE: What did you teach at the other three schools?

AUSTIN: The same things I teach here: Torts, Advanced Torts, and I'm sure there's something else that I teach and now I can't remember...insurance, insurance.

LEE: I wanted to discuss some of your academic work, views, and professional activities. Your academic works seems to focus on primarily black women's issues and problem-solving in the African-American community, including discussions on teen pregnancy, sexuality, economics, and leisure. What do you consider to be the most significant work that you've published?

AUSTIN: Oh, probably "Sapphire Bound" was the most significant thing that I've published which was about black feminism and a particular case involving a woman who was fired from her job because she was no longer a suitable role model. All of my work is directed at showing the relevance of culture to the resolution of legal issues and I think I've done that in all of the things I've written and I think it's very, very important that we recognize that we are not all the same, that people have different ways of responding to material circumstances, that people live under different material circumstances, and that there is no way that one single approach can be superimposed upon a country as diverse as ours and that the expectation that there is only one way to do things is fascistic.

LEE: In "Sapphire Bound," you argued that black women legal scholars should use their position and skills to promote the political and social standing of all minority women. In what ways can and should they do that?

AUSTIN: In what ways should...

LEE: In other words, how do you believe the work of a minority feminist legal scholar should be different from other scholars?

AUSTIN: Well, it should start...it should start with the premise that black people are at the center of the universe and go on from there. That's not to say that other people are excluded from the universe. It's simply to say that we all start somewhere and that it makes sense for black female scholars, when it's relevant to the topic that they're dealing with, start from a base point that puts black women first, and you go on from there.

LEE: Do you believe that any minority in a position of power should use their position to help their group, and if they don't make an issue of their race, are they not serving or advancing their race?

AUSTIN: No, I think that you can advance your race in very quiet ways. Sometimes, you have to be loud, though, and I have found that being loud, persistent can reap rewards for other people. There are many, many ways to deal with problems of inequity in our society and I don't have any idea as to what the best way is. I know what my way is, but I have seen other people just as effectively work in quieter ways, in more general ways. So that's a possibility too.

LEE: You have been described as a "critical race scholar." What does that term mean exactly? Could you describe critical race jurisprudence.

AUSTIN: No, not really, because I'm not sure what critical race jurisprudence is. I know what I do, but I wouldn't presume to categorize what it is that other people do. As I said, I start with black folks as the center of the universe and then go out from there, operating on the conceit that

what's good for black people is probably gonna be good for brown people and good for Asian-Americans and good for people etcetera, etcetera, etcetera. And I sort of suspect that that is a common characteristic of the body of scholarship that is classified as critical race studies. But I rely fairly heavily on culture as being the base on which you begin to build so that your authorities come from the culture and not outside of the culture, but other folks don't do that. They start maybe with critical theory which is grounded in a different sort of universe.

LEE: Many of your writings include discussions of the role and status of black women in society. Who do you think has been the most influential black woman in American history and in the realm of the law?

AUSTIN: Oh, G-d. That's a tough question. The most influential woman in black history? I have no one person that I could point to...Ida B. Wells, Mary McCloud Bethune...in terms of the law, gosh, that's hard. I saw a reference to Constance Motley yesterday, certainly Judge Motley would have to be because she held her own with those men and did things that women were just not doing in the name of civil rights lawyering which is...which is very important. I can't think of anybody else. That was a tough one.

LEE: In one of your articles you argued that African-Americans should not rely on the law to solve problems. Did you have that view before law school or was that something that came out of your law school experience?

AUSTIN: I had the view before law school because I was taking buildings which was probably not legal, but was a necessity at the time or seemed so. I think that groups need to have problem-solving capacities of their own that are not dependent upon a centralized state authority and that's true for black people as it is true for others. How you go about creating that alternative source of authority is not entirely clear. It may be localized in communities in associations but there has to be some capacity outside of the state to protect the well-being of members of the community.

LEE: In your article, "Nation of Thieves," from 1994, you discuss the way blacks are treated as if they were all potential shoplifters, thieves, or deadbeats. You wrote that blacks are treated badly in restaurants, in theaters, and on airlines. How have your experiences shaped your beliefs? Have you ever had an experience like the ones described in the article?

AUSTIN: Oh sure, all the time. Service discrimination is rampant in this country. My husband and I will go into all sorts of restaurants and I think part of the reason that we get, what I think is, different or inferior treatment is that there aren't black patrons in these restaurants and there's an assumption that black folks can't afford to be there. My husband and I are both university professors. My husband is African. We can afford to go to the places that we go to, but they're just not used to seeing black people. The world is much more segregated than one might imagine in this day and age. Now that could be for two reasons. It could be that blacks and Latinos choose to patronize their own restaurants, to stay in their own communities. But, it could also be that black and Latino patronage is not desired or encouraged, and I think it's more of the latter than we would expect. There are times when I am very, very pessimistic about the

social sphere...very, very pessimistic about there being spaces where people can come together and see different people who are like them in many ways and I think it's very important that there be such places, but they're not as numerous as I thought they would be when I was a much younger person, optimistic about the gains that blacks had made as a result of the civil rights revolution.

LEE: Have you personally faced discrimination throughout your lifetime? Were there times when it was better or worse, and how do react when you face discrimination?

AUSTIN: Poorly sometimes, poorly. I get angry and that doesn't do much for my blood pressure. Yeah, there's all kinds of discrimination. You just don't let it bother you. I've never been one who was given to first person narratives. I don't do first-person narratives. The paper that I wrote on leisure discrimination came out of a...an experience that my husband and I had in a Caribbean island and we were being harassed by the security guards at the restaurant...sorry, at the hotel where we were staying because they couldn't seem to understand that we were paying customers, we were guests and so my husband proceeded to have a very heated conversation with the head of the security force in French, which I could not understand, so all of this comes by way of translation, and they are just screaming at each other, and so I get the story later, and then I write it all down, and that got me interested in the subject of restraints on leisure. And so I started various versions of this paper with my first person narrative and then I moved it to the back of the paper, and then finally I just moved it out of the paper entirely. No matter how bad things get, I am not going to be the worst example of ill treatment. I refuse to believe that that is so. I know that there is going to be somebody who's worse off than I am. My job as a lawyer

and my job as a legal scholar is to tell their story and so there are some horrible, horrible, horrible stories of things that have happened to other people, but I don't think I will ever tell my own story. Now I may have to write a fictionalized account of my time at the law school at some point in my life, but it will not be a first person tell-all, poor me narrative.

LEE: At any point in your life have you felt the need to conform to others?

AUSTIN: Conform to others...what?

LEE: In beliefs or changing behaviors or views because some of your views are...

AUSTIN: Too far out? Sure, there are times when I keep quiet. There are times when I don't say anything, and then there are times when I conform to the behavior of others and maybe even *exceed* the behavior of others because of things that...because of values that I have that they don't share. And they may have no idea that my values are different, but it looks like I'm conforming, so I go on from there. I mean I'm still a law professor. I haven't given up the...this cushy job so there must be some element of conformity in me.

LEE: In your article, "An Honest Living," you wrote that black people should not be too law abiding. Do you think that statement has been misinterpreted?

AUSTIN: Oh, I don't know. Has anybody held that against me? I do the underground economy. I do informal economics, and anybody who knows about real life in any kind of

come slowly these bridges, so that's really something we do have to work on. And so this book was conceived in one world but finished in the other, and that's how I got involved in that.

LEE: Is your husband a professor at Penn?

AUSTIN: He is a professor at New York University and he teaches Comparative Literature and Film and he is the head of the Africana Studies department and the Institute of Afro-American Affairs.

LEE: You mentioned that you use sociology and sociological studies in many of your writings. You also served as a member of the Institute of Medicine's Committee on Environmental Justice, Research, Education, and Health Policy Needs. Did you ever consider sociology over law?

AUSTIN: I've thought about it. I've thought about getting a Ph.D. in sociology, but it's...too old and I've written too much to turn around and go back to the status of an entry level graduate student. But, yes I have thought about it...someday.

LEE: Do you enjoy your work on these committees?

AUSTIN: Those committees were very difficult. They were very hard and I don't think that I would do them again because the committee were composed of scientists and social scientists and the law is more political than either group tends to be so that many of the things that I think

people are concerned about are not thought to be significant by scientists and get rationalized away by social scientists so it was very difficult and we were supposed to come up with one report and one had to compromise in order to stay involved in the effort. But I think that I was able to make a contribution to both committees. With regard to the Committee on Waste Incineration I think I made it pretty clear that I thought accidents were pretty important given that I was a Torts teacher and that upsets and start-ups had to be the subject of regulation so I felt as if I had done something even though there were other things about the report that I might not agree with.

LEE: Could you explain the idea behind Environmental Racism and how you became involved in teaching that class.

AUSTIN: I got involved in teaching Environmental Racism as a result of an article I co-authored with one of my colleagues. I was asked to write a piece on environmental problems by someone at the University of Kansas and so I corralled my colleague because he taught Property and I thought he knew more about this than I did, and in doing the research we discovered the Environmental Racism movement, and so I found out everything that I could and wrote the article and it was one of the seminal pieces in the law having to do with Environmental Racism. And so after that I got interested in it and I did some other projects...I did the National Research Council work. My leisure piece is a race in space piece. And I'll continue to write papers having to do with race, culture, and space. And I also teach the course and it's not an easy course to teach because it is a sort of survey. The papers that the students write are not easy to

write, but I think we welcome the opportunity to come together to talk about issues of space and class and race and culture.

LEE: Do you see the law as a vehicle for social change?

AUSTIN: In this particular context, it's not clear. Environmental justice groups have made gains using the law as an ancillary tool. They haven't won any big cases based totally on the law. The law is useful as a supplement to activism. The law is useful as a supplement to bringing the message home to decision-makers that people are suffering. But the law is not what it was in the civil rights era. It is not...it is not a magic bullet. We don't have any claims that will cut through all the mechanisms by which poor and minority people come to live, work, play in the midst of pollution and toxins and other things that will hurt them. It doesn't cut through all of the things that result in this physical nexus between poor and minority people and lesser quality environments, but it can be useful when joined with people power to make things better for some people.

LEE: In what ways can and should the law improve the lives of minorities now?

AUSTIN: Where do I see the big...well, let's see. There are two areas where I think the law is going to become increasingly important. One area has to do with health and public health in particular and initiatives to make certain that minority groups get their fair share of the attention and the dollars that are being devoted to health care in this country. And I think that necessarily means more laws and more regulatory interests with regard to public health...that's one area.

And the other area where I think that attention will have to be paid is with regard to economic development and the significant issues having to do with privatization of wealth. First, perhaps a restoration of the public interest in private wealth. We've had a great privatization of wealth that has benefited the people who are best off in the society and we may need to see that unraveled in a way that produces privatization or quasi-privatization for people who are the least well off. I think we have to find ways for people to get into the competition because I don't think that the competition is going to die anytime soon. People have to be given the wherewithal to compete and to the extent that resources are removed from access by the market we're going to have to see that some of those resources devolve into the hands of small collectives of people who are effectively engaged, democratically governed. So those are the areas where I think in the future we're going to see struggle, change in the law.

LEE: I just have a few questions in closing today.

AUSTIN: Okay.

[Brief conversation about the Oral History Project while the tape is being adjusted]

LEE: Currently, what particular area of the law interests you the most?

AUSTIN: Fast food. I'm becoming an expert on fast food law. I've been doing money and economics and I'm hoping that I will be able to put all the articles together when I finish this piece on the social meaning of black people's money and then I'm going to go off in the

direction of food, but I'm starting with discrimination and the fast food, or quick service, industry. So fast food law is of interest to me at this point.

LEE: What do you like to do in your free time? I noticed you have a lot of community service awards from your time at Schnader, Harrison.

AUSTIN: What do I like to do? Well, mostly I get involved with the activities that are connected with my husband's programs. So we tend to do cultural things in New York City. We go to all kinds of film festivals or up to studio museum and do a lot of film-going, primarily African film-going at this point. And I like to travel. Along with a husband came step-children and a cat so I had my hands full there for awhile. Things are getting better now that they're getting older. So I guess that's basically what I do in my free time, such as it is.

LEE: We discussed your contribution to the Penn community. What do you consider to be your most significant contribution to the legal profession?

AUSTIN: I'm an institutional actor. What I've done, I've done through Penn, and I think that's been the locus and the focus of my activities and to the extent that that has reverberated outside, it's nice.

LEE: Is there an experience or an issue that you have dealt with as a professor and as a lawyer that you consider to have been your most challenging one?

AUSTIN: Oh well, the biggest challenge is trying to integrate the faculty. Integrating the student body was tough for awhile but I did my service on the Admissions Committee, much to Janice Austin's regret because I could say I've been there and done that many, many times. But trying to find a way to make what comes naturally to me, which is the conclusion that minority people are every bit as smart, every bit as creative, every bit as talented as anybody else and need to...need therefore to be represented on the faculty in decent numbers...it's very difficult. And I think that's the biggest challenge and that's probably the challenge I'll have until I retire or they carry me out of here, whichever comes first.

LEE: How do you think legal education has changed and in what direction do you see legal education going?

AUSTIN: I think that legal education has become much more corporate in a lot of different ways. I think that there's less of a sense of mission and more of a sense of the profession being a tool or secondary to primary economic actors. The profession certainly has become much more of a business and law firms are much more of a business now than they were when I was in law school and I think that that has made...that has made a difference. By the same token, I think that there has been an evolution on the other side as well and a greater recognition that competition is not gonna go away and that we all have to begin to become much more equipped to operate in different spheres...that people who are interested in social justice also have to be interested in economic justice which is to say they have to be interested in economics which is to say that they have to be interested in the way in which the economy is organized, markets. So that things have gotten to be much more complex. The United States is an actor in the world but

an actor, not the *only* actor. And those of us who have a particular notion about how the world ought to be must begin to grapple with its complexities. I think it's very difficult for... at least, I've found it very difficult to travel abroad and to find that people relate to me as an American, as opposed to a black American or a black female American because I, as a black female American, may believe that America has not done right by me and other people in the world with whom I identify doesn't mean that those other people look at me as a soul mate, as someone who has a shared existence in some small way, so that we have to come to understand our role in a global economy and I think that's tough. I hope that law school is equipping people to do that no matter what side of the table they wind up sitting on. I'm not sure about that, though. I'm not sure at all.

LEE: What do you consider to be your greatest accomplishment thus far?

AUSTIN: Oh, I don't know. As I said I survived. I taught my class...I taught my class this morning and if I didn't do it well today there's always Tuesday and the students will let me know if there's more to be done. I'm not ready to sum things up yet.

LEE: Do you have any advice for young lawyers starting out today?

AUSTIN: Oh no, absolutely not. I don't know enough about the world in which they're operating to pontificate.

LEE: Is there any specific area that you would like to see Penn pursue in the future? You mentioned the faculty...integrating the faculty.

AUSTIN: Yeah, I'd certainly like to integrate the faculty. That would... that would be real important to me. That's why I'm on the faculty appointments committee. We'll see, we'll see.

LEE: What are some of your plans now? What do you hope to accomplish in the future?

AUSTIN: Get that first book written. Books are important. When people pick up books, it means something to them, and a book...a book is something that will last. It's not like the articles which are just so much paper. There's something about a book that I'd like to...I'd like to get my ideas in a book. So that's what I...that's what I'm gonna do next. Write a book and see what happens.

LEE: Is there anything else about your life or anything that I missed that you'd like to cover?

AUSTIN: Nope.

LEE: Well, thank you. This has been wonderful.

AUSTIN: You're quite welcome.